

### REMARKS

Claim 1 has been amended by this paper. Claims 1-22 and 30-37 are presented for further examination.

The specific changes to the specification and the amended claims are shown in the above section entitled IN THE CLAIMS. On this set of pages, the insertions are underlined while the ~~deletions are stricken through~~.

In the Office Action, Claims 1-9, 12-15, 17-21, 30, 31, and 34-37 were rejected under 35 U.S.C. § 102(e) as being unpatentable over Sheppard, Jr. et al. (US Patent No. 6,143,247, hereinafter "Sheppard"). Claims 10 and 11 were rejected as being obvious over Sheppard in view of Sizto, et al. (US Patent No. 5,962,238, hereinafter "Sizto"). Furthermore, Claims 16, 32 and 33 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over Sheppard in view of Sizto in combination with several other references.

Claims 1-22 and 30-37 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting. Applicant respectfully submits that in view of that this rejection is provisional, Applicant respectfully requests to defer resolution of this to the event it becomes non-provisional.

Upon subsequent consideration of the Claims, Applicant has presented amended Claim 1 herein, to include the features of :

“loading the disc into an optical reader which includes a detector and a trigger sensor; ...

“detecting by use of the detector at least one beam of electromagnetic radiation formed after interacting with the disc at the at least one capture zone; ...

detecting trigger information by use of the trigger sensor from a disc location that is separate from the at least one capture zone, wherein the disc includes information for controlling the rotation of the disc and information for processing the specific immunotyping assay to be conducted; ...

generating a trigger signal in response to the detected trigger information;

...

**Appl. No.** : **09/988,728**  
**Filed** : **November 16, 2001**

processing at least a portion of the output signal in response to the trigger signal; ...”

Applicant respectfully submits that there is neither any teaching nor suggestion in Sheppard or Sizto as to a disc that includes information for controlling the rotation of the disc and information for processing the specific immunotyping assay to be conducted. Applicant respectfully submits that he has reviewed those portions cited by the Examiner with respect to the trigger markings, and Applicant respectfully submits that there is no teaching or suggestion of such limitations.

Accordingly, for at least the reasons set forth above, Applicant submits that independent Claim 1 defines subject matter which patentably distinguishes over the art of record. Furthermore, since each of Claims 2-22 and 30-37 depend from independent Claim 1, Applicant respectfully submits that these claims also define subject matter which is patentable for at least the reasons set forth with respect to Claim 1.

In view of the foregoing, Applicant respectfully submits that Claims 1-22 and 30-37, as presented herein, define subject matter that is patentable over the art of record. Accordingly, Applicant respectfully submits that Claims 1-22 and 30-37 are now in condition for immediate allowance and such prompt allowance of the same is respectfully requested.

#### CONCLUSION

The Applicant has endeavored to address all of the concerns of the Examiner in view of the recent Office Action directed to the above-identified application. Accordingly, amendments to the claims, the reasons therefor and arguments in support of the patentability of the pending claims are presented above.

Any claim amendments which are not specifically discussed in the above remarks are not made for patentability purposes, and it is believed that the claims would satisfy the statutory requirements for patentability without the entry of such amendments. Rather, these amendments have only been made to increase claim readability, to improve grammar, and to reduce the time and effort required of those in the art to clearly understand the scope of the claim language. Any new claims presented above are of course intended to avoid the prior art, but are not intended as

**Appl. No.** : **09/988,728**  
**Filed** : **November 16, 2001**

replacements or substitutes for any cancelled claims. They are simply additional specific statements of inventive concepts described in the application as originally filed.


In light of the above amendments and remarks, reconsideration and withdrawal of the outstanding rejections is specifically requested. If the Examiner finds any remaining impediment to the prompt allowance of these claims that could be clarified with a telephone conference, the Examiner is respectfully requested to initiate the same with the undersigned.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: Oct. 17, 2005

By:   
Eric M. Nelson  
Registration No. 43,829  
Attorney of Record  
Customer No. 20,995  
(619) 235-8550

1968060:sad2  
101705